

ORDINANCE NO. 192.18

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MILPITAS, CALIFORNIA,
AMENDING ORDINANCE NO. 192, AS PREVIOUSLY AMENDED, AND APPROVING
AND ADOPTING THE ELEVENTH AMENDMENT TO THE REDEVELOPMENT PLAN
FOR THE MILPITAS REDEVELOPMENT PROJECT NO. 1

WHEREAS, the City Council of the City of Milpitas (the "**City Council**") originally approved and adopted the Redevelopment Plan for the Milpitas Redevelopment Project No. 1 (the "**Project Area**") on September 21, 1976, by Ordinance No. 192 (as subsequently amended, (the "**Redevelopment Plan**");

WHEREAS, the Redevelopment Agency of the City of Milpitas (the "**Agency**") has been designated as the official redevelopment agency to carry out in the City of Milpitas the functions and requirements of the Community Redevelopment Law of the State of California (Health and Safety Code section 33000 *et seq.*) and to implement the Redevelopment Plan;

WHEREAS, the Agency has proposed an Amendment to the Redevelopment Plan (the "**Amendment**") to provide for the merger of the Project Area with the Great Mall Redevelopment Project Area (hereafter, the Milpitas Redevelopment Project No. 1 and the Great Mall Project Area are referred to collectively as the "**Project Areas**");

WHEREAS, the proposed Amendment does not add territory to the Project Areas and does not extend any time or fiscal limitations set forth in the Redevelopment Plan;

WHEREAS, the Planning Commission of the City of Milpitas (the "**Planning Commission**") has reviewed the Amendment, has determined that the Amendment conforms to the General Plan of the City of Milpitas, and has recommended the approval and adoption of the Amendment;

WHEREAS, the City Council and the Agency have each determined that the establishment of a Project Area Committee is not required because the Amendment does not authorize use of eminent domain for property on which persons reside and does not provide for the development of public projects that will cause displacement;

WHEREAS, the Agency prepared and circulated a Draft Supplemental Environmental Impact Report (the "**Draft EIR**") on the Amendment in accordance with the California Environmental Quality Act (Public Resources Code § 21000 *et seq.*), the Guidelines for Implementation of the California Environmental Quality Act (14 Cal. Code Regs. § 15000 *et seq.*) and environmental procedures adopted by the Agency pursuant thereto, and the Draft EIR was thereafter revised and supplemented to incorporate comments received and responses thereto, and, as so revised and supplemented, a Final Supplemental Environmental Impact Report (the "**Final EIR**") was prepared by the Agency;

WHEREAS, the City Council has received from the Agency the proposed Amendment, together with the Final EIR and the Report of the Agency on the proposed merger and Amendment (the "**Report to Council**");

WHEREAS, the City Council and the Agency held a joint public hearing on November 21, 2006, on the adoption of the Amendment and on the approval and certification of the Final EIR, in the City Council Chambers, City Hall, 455 East Calaveras Boulevard, Milpitas, California;

WHEREAS, a notice of the joint public hearing was duly and regularly published in the *Milpitas Post*, a newspaper of general circulation in the City of Milpitas, once a week for five successive weeks prior to the date of the hearing, and a copy of the notice and affidavit of publication are on file with the City Clerk and the Agency;

WHEREAS, copies of the notice of public hearing were mailed by certified mail with return receipt requested to the governing body of each taxing agency which receives taxes from property in the Project Areas;

WHEREAS, copies of the notice of public hearing, together with a statement concerning acquisition of property by the Agency were mailed by first class mail to the last known address of each assessee of each parcel of land in the Project Areas, as shown on the last equalized assessment roll of the County of Santa Clara;

WHEREAS, copies of the notice of public hearing were mailed by first class mail to all residents and businesses in the Project Areas;

WHEREAS, the Agency and the City Council have reviewed and approved the Final EIR, as prepared and submitted pursuant to Public Resources Code section 21151 and Health and Safety Code section 33352, and have adopted mitigation findings, findings regarding alternatives, a statement of overriding considerations, and a mitigation and monitoring plan in connection therewith;

WHEREAS, the City Council has considered the Report to City Council, the Report and Recommendations of the Planning Commission, the Amendment and the Final EIR, has provided an opportunity for all persons to be heard and has received and considered all evidence and testimony presented for or against any and all aspects of the Amendment, and has adopted written findings in response to each written objection to the Amendment received from an affected taxing entity or property owner; and

WHEREAS, all actions required by law have been taken by all appropriate public bodies.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF MILPITAS DOES HEREBY ORDAIN AS FOLLOWS:

Section 1. The purposes and intent of the City Council with respect to the Amendment are to merge the Project Areas in order to (i) permit tax increment funds generated within Project Area No. 1 to be expended for improvements within the Great Mall Project Area, and (ii) to improve the economic vitality of businesses located within both Project Areas by providing for the installation and improvement of advertising displays located along freeway corridors within the Project Areas which may be used by civic organizations and businesses located in both Project Areas.

Section 2. The City Council does hereby specifically find and determine that:

a. The Amendment will facilitate redevelopment of the Project Areas in conformity with the Community Redevelopment Law and in the interests of the public peace, health, safety and welfare. This finding is supported by the fact that redevelopment of the Project Areas as contemplated by the Redevelopment Plan, as amended by the Amendment, will implement the objectives of the Community Redevelopment Law by improving the economic vitality of businesses located in the Project Areas, and thereby increasing employment opportunities, aiding in the elimination and correction of the conditions of blight and deterioration in the Project Areas, and increasing opportunities for the development of affordable housing, the installation of public improvements, the rehabilitation of existing structures, and the construction of new commercial and residential developments.

b. The adoption and carrying out of the Amendment is economically sound and feasible. This finding is based upon the fact that under the Redevelopment Plan, as proposed to be amended, the Agency will be authorized to seek and utilize a variety of potential financing resources (including tax increments generated within Project Area No. 1); that the nature and timing of public redevelopment assistance will depend on the amount and availability of such financing resources, generated by new investment in the Project Areas; and that no public redevelopment activity will be undertaken unless the Agency can demonstrate that it has adequate revenue to finance the activity. The Report to Council further documents the economic feasibility of the Amendment and related undertakings.

c. The Amendment is consistent with the General Plan of the City of Milpitas, including, without limitation, the Housing Element of the General Plan which substantially complies with the requirements of Article 10.6 (commencing with Section 65580) of Chapter 3 of Division 1 of Title 7 of the Government Code. This finding is based on the report of the Planning Commission that the Amendment conforms to the General Plan of the City of Milpitas.

d. The carrying out of the Amendment will promote the public peace, health, safety and welfare of the City of Milpitas and will effectuate the purposes and policies of the Community Redevelopment Law. This finding is based upon the fact that redevelopment, as contemplated by the Redevelopment Plan, as amended by the Amendment, will benefit the Project Areas by promoting economic vitality, generating employment opportunities, and correcting conditions of blight and by coordinating public and private actions to stimulate development and improve the economic, social and physical conditions of the Project Areas.

e. The Agency has a feasible method and plan for the relocation of families and persons who may be displaced, temporarily or permanently, from housing facilities in the Project Areas. This finding is based upon the fact that the Redevelopment Plan provides for relocation assistance according to law.

f. There are, or are being provided, within the Project Areas or within other areas not generally less desirable with regard to public utilities and public and commercial facilities and at rents or prices within the financial means of the families and persons who might be displaced from the Project Areas, decent, safe and sanitary dwellings equal in number to the number of and available to such displaced families and persons and reasonably accessible to their

places of employment. This finding is based upon the fact that no person or family will be required to move from any dwelling unit in the Project Areas until suitable replacement housing is available according to law.

g. Families and persons shall not be displaced prior to the adoption of a relocation plan pursuant to Sections 33411 and 33411.1 of the Community Redevelopment Law; and dwelling units housing persons and families of low or moderate income within the Project Area shall not be removed or destroyed prior to the adoption of a replacement housing plan pursuant to Sections 33334.5, 33413, and 33413.5 of the Community Redevelopment Law.

h. The elimination of blight and the redevelopment of the Project Areas could not be reasonably expected to be accomplished by private enterprise acting alone without the aid and assistance of the Agency. This finding is based upon the existence of blighting influences (as documented in connection with the initial adoption of the Redevelopment Plan), including the lack of adequate public improvements, and the inability of individual developers to economically remove these blighting influences without public assistance to acquire and assemble sites for development, and the provisions of public improvements, facilities and utilities, the inability of low- and moderate-income persons to finance needed improvements, and the inadequacy of other governmental programs and financing mechanisms to eliminate blight, including the provision of necessary public improvements and facilities.

i. The time limitations set forth in the Redevelopment Plan are reasonably related to the proposed projects to be implemented in the Project Areas and are not proposed to be amended.

j. The merger of the Project Areas is authorized by, consistent with, and will serve the legislative policies of, Health and Safety Code Section 33485 *et seq.*, in that the merger will result in substantial benefit to the public and will contribute to the revitalization of the Project Areas through the increased economic vitality of such areas and through increased and improved housing and economic opportunities in or near such areas.

Section 3. The City Council is satisfied if any residents of the Project Areas are displaced, permanent housing facilities will be available within four years from the time of such displacement, and that pending the development of such facilities, there will be available to any such displaced persons temporary housing facilities at rents comparable to those in the City of Milpitas at the time of their displacement. No persons or families of low or moderate income shall be displaced from residences unless and until there is a suitable housing unit available and ready for occupancy by such displaced persons or families at rents comparable to those at the time of their displacement. Such housing units shall be suitable to the needs of such displaced persons or families and must be decent, safe, sanitary and otherwise standard dwellings. The Agency shall not displace any such persons or families until such housing units are available and ready for occupancy.

Section 4. The City Council is satisfied that all written objections received before or at the noticed public hearing have been responded to in writing. In addition, written findings have been adopted in response to each written objection of an affected property owner or taxing entity which has been filed with the City Clerk either before or at the noticed public hearing.

Following consideration by the City Council, all written and oral objections to the Amendment are hereby overruled.

Section 5. The Redevelopment Plan, as originally adopted and as previously amended is hereby further amended as set forth in the proposed Amendment attached hereto as Exhibit A and incorporated by reference.

Section 6. In order to implement and facilitate the effectuation of the Amendment hereby approved, it may be necessary for the City Council to take certain actions, and accordingly, this City Council hereby (a) pledges its cooperation in helping to carry out the Redevelopment Plan and the Amendment; (b) requests the various officials, departments, boards and agencies of the City having administrative responsibilities in the Project Area, likewise to cooperate to such end and to exercise their respective functions and powers in a manner consistent with the redevelopment of the Project Areas pursuant to the Redevelopment Plan as amended; (c) stands ready to consider and take appropriate action upon proposals and measures designed to effectuate the Redevelopment Plan as amended; and (d) declares its intention to undertake and complete any proceedings necessary to be carried out by the City under the provisions of the Redevelopment Plan as amended.

Section 7. Ordinance No. 192, and as previously amended on September 4, 1979, by Ordinance No. 192.1; on May 4, 1982, by Ordinance No. 192.2; on November 27, 1984, by Ordinance No. 192.3; on December 9, 1986, by Ordinance No. 192.4; on April 16, 1991, by Ordinance No. 192.6A; on December 9, 1994, by Ordinance No. 192.9; on October 15, 1996, by Ordinance No. 192.11; on June 17, 2003 by Ordinance No. 192.14; on October 7, 2003 by Ordinance No. 192.15; and on October 3, 2006 by Ordinance No. 192.16 is continued in full force and effect as further amended by this Ordinance.

Section 8. The City Clerk is hereby directed to send a certified copy of this Ordinance to the Agency, whereupon the Agency is vested with the responsibility for carrying out the Redevelopment Plan as amended by the Amendment.

Section 9. The City Clerk is hereby directed to record with the County Recorder of Santa Clara County a notice of the approval and adoption of the Amendment pursuant to this Ordinance containing a statement that proceedings for the redevelopment of the Project Area, pursuant to the Amendment have been instituted under the California Community Redevelopment Law.

Section 10. The City Clerk is hereby directed to transmit a certified copy of this Ordinance to the governing body of each of the taxing agencies which levies taxes upon any property in the Project Areas.

Section 11. This Ordinance shall be in full force and effect thirty (30) days after its passage.

Section 12. The City Clerk is hereby ordered and directed to publish the Ordinance by summary in accordance with state law.

Section 13. If any part of this Ordinance, or the Amendment which it approves, is held to be invalid for any reason, such decision shall not affect the validity of the remaining portion of this Ordinance or of the Amendment, and this City Council hereby declares that it would have passed the remainder of the Ordinance, or approved the remainder of the Amendment, if such invalid portion thereof had been deleted.

PASSED AND ADOPTED this _____ day of 2006, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

ATTEST:

APPROVED:

Mary Lavelle, Agency Secretary

Jose S. Esteves, Chair

APPROVED AS TO FORM:

Steven T. Mattas, Agency Counsel

EXHIBIT A

**ELEVENTH AMENDMENT TO THE REDEVELOPMENT PLAN
FOR THE
MILPITAS REDEVELOPMENT PROJECT AREA NO. 1**

The Amended and Restated Redevelopment Plan for the Milpitas Redevelopment Project Area No. 1 is hereby amended to include a new Part X to read as follows:

X. (§1000) MERGER

Upon the effective date of the ordinance adopting the Eleventh Amendment to this Redevelopment Plan, and provided that the ordinance amending the Redevelopment Plan for the Great Mall Redevelopment Project to add a similar Part X also becomes effective, the Milpitas Redevelopment Project Area No. 1 will hereby be merged with the Great Mall Redevelopment Project, and shall collectively be referred to as the “Merged Redevelopment Project.”